

County Probate Offices



Functional Analysis & Records Disposition Authority

**Revision
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Local Government
Records Commission
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Functional and Organizational Analysis of County Probate Offices

Sources of Information

- Representatives of the County Probate Offices:
 - Honorable Luke Cooley, Judge of Probate, Houston County
 - Honorable Patricia Fuhrmeister, Judge of Probate, Shelby County
 - Honorable Albert O. Howard, Judge of Probate, Russell County
 - Honorable Tim Mitchell, Judge of Probate, Marshall County
 - Honorable Bill Stone, Judge of Probate, Pike County
- Representatives of the Alabama Secretary of State's Office
- *Acts of Alabama*, 1992, 1994
- ADAH Government Records Division, *Judges of Probate General Records Schedules*, 1998
- *Alabama Election Handbook*, 8th Edition
- Alabama Law Institute, *Handbook for Alabama Probate Judges*, 6th Edition
- Code of Alabama 1975 § 12-13-1 through 12-13-70
- Examiners of Public Accounts, *Minimum Accounting Requirements for Probate Judges*, 1993
- Jones, H. G., *Local Government Records*, 1980
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- Martin, David, *Alabama's State and Local Governments*, 3rd Edition, 1994

Historical Context

The court system established in 1819 by the first session of the Alabama legislature was similar to that which had previously existed in the Mississippi Territory. A five-judge county court was required to sit at certain intervals as an orphans' court to handle both probate and orphans' business. This court functioned as the chief administrative and legislative body in the county and as an inferior court with limited criminal and civil jurisdiction.

In 1821 the composition of this county court changed to one judge and one clerk. The other judges were assigned to a newly established court of county commissioners. This arrangement provided a certain amount of separation between administrative and judicial functions at the county level. The county court retained the judicial powers of its predecessor, with the county judge exercising the same powers previously held by the chief judge of the original county court. The new commissioners' court was assigned administrative and legislative functions, such as control over roads, ferries, and bridges, and the management of public buildings. This situation remained unchanged until the middle of the nineteenth century.

In 1850, a probate court was established in each county. The previous positions of judge and clerk were thus consolidated into the office of the judge of probate. Unlike the county judge, who was appointed for a term of six years, the judge of probate was popularly elected for a term of six

years. All functions previously held by the county court, except criminal and civil jurisdiction, were transferred to the probate court. The probate judge was given responsibilities formerly exercised by the county judge and clerk of the county court and was authorized to appoint his own clerk. In some cases, the judge of probate also became a member of the court of county commissioners.

Additional responsibilities have been added since the 1850s. Most of these concerned the expansion of previous responsibilities in election administration, licensing, and record keeping. The most important addition was made in 1866, when the judge of probate was designated an *ex officio* judge of the Court of County Commissioners in all counties. Exceptions to this law were made between 1866 and 1915, when the probate judiciary was finally clarified. At this time, the judge of probate was reestablished as *ex officio* judge of the county court in all counties with a population less than 50,000 and became judge of the juvenile court in all counties where a separate juvenile court had not been established.

Constitutional amendments adopted in 1972 and 1973 revised Alabama's constitutional provisions concerning the state judiciary once again. While the 1972 amendment abolished the office of the justice of the peace, the 1973 judicial article established a court structure composed of the Supreme Court of Alabama, the Court of Criminal Appeals, the Court of Civil Appeals, the circuit courts, the probate courts, a new set of inferior courts known as district courts, and municipal courts in those municipalities electing to retain their own court rather than incorporate into the appropriate district court. In 1977, responsibility for juvenile justice was removed from the probate court and assigned to district or, in some cases, circuit courts.

Agency Organization

Every county has a probate court. Its jurisdiction includes wills and estates; adoptions; involuntary commitments to the Alabama Department of Mental Health and Mental Retardation; the recording of important property, marriage, and corporation documents; and, in some counties, the collection of fees for various licenses. Probate offices are important centers of county business in the courthouse.

Probate judges are elected by the qualified electors in each county for a term of six years, which begins in January after the November election. Candidates for the office are required to be citizens of the state and residents of the county for one year prior to the election. They are not required to hold a law degree. Probate judges have the authority to appoint a chief clerk and other clerks deemed necessary for performing the duties of the office. The chief clerk is authorized to perform most of the duties and responsibilities of the probate judge. In a few counties (currently 16), the probate judge serves as chairman of the county commission and thus carries out additional administrative duties.

Agency Functions and Subfunctions

Probate judges have a large number of mandated responsibilities. The probate offices carry out primarily the Administrative Support Operations function of local government but are also

involved in the Public Services and, in some cases, Regulatory functions. In performance of their mandated functions, probate offices may engage in the following subfunctions.

- **Administering Elections.** The probate judge is the county's chief election official. Election responsibilities are coordinated with the county board of registrars, the sheriff, and the Secretary of State. The probate office accepts petitions of independent candidates for county offices; ensures that the names of all qualified candidates appear on the ballot; accepts financial statements from political committees; publicizes boundaries of election districts and polling places; prepares ballots and other voting supplies; serves on the appointment board that names elections officers; publishes lists of all registered voters in the county by precinct or district; supervises absentee voting; ensures that voting machines are functioning properly; and supervises the accurate counting of votes and the reporting of the results to the proper authorities. The probate office also accepts petitions for "wet-dry" elections and administers a vote on this issue when the number of names on the petitions totals 25 per cent of the county's currently eligible voters. Many of the records created by the probate office in the election process are subsequently filed with either the Secretary of State or the county board of registrars.
- **Recording/Maintaining Legal Instruments and Verifications.** The probate office is, in a sense, the information center of the county. A variety of legal instruments must be filed in the probate office, which is then responsible for maintaining these records in a manner that makes them accessible for public use. Real property records filed and maintained in the probate office include deeds, mortgages, liens, plats or maps, tax sale records, records of vacation of property and easements, and records of eminent domain and adverse possession. Also recorded in the probate office are financing statements required by the Uniform Commercial Code and other lien records. County and municipal officials, as well as some state officials, must file bonds with the probate judge upon assuming office. Sources of vital information maintained in the probate office include marriage records and records of name changes. As part of its record keeping responsibilities, the probate office must maintain copies of each daily or weekly newspaper published in the county. The newspapers document the probate office's mandated responsibility to publish various notices to the public created in conjunction with its other duties.
- **Certifying Incorporations.** Articles of incorporation under the laws of Alabama are filed in the probate office. After ascertaining that the articles are in conformity with the law, the judge files the articles, issues a certificate of incorporation to the incorporators, and, within 10 days, sends a copy of the certificate and the articles to the Secretary of State's office. The probate judge also certifies amendments to articles of incorporation, articles of merger or consolidation, and articles of dissolution and receives and certifies petitions from inhabitants of unincorporated communities who desire to organize as a municipal corporation.
- **Establishing the Validity of Wills/ Documenting the Administration of Estates.** One of the probate judge's judicial responsibilities is to probate wills and provide documentation of the administration of estates. The validity of an individual's

will and the right of the executor of the estate to distribute the assets of the deceased are established by the filing of the will and related documents in the probate office. Once the will is filed in the probate office, letters testamentary are issued to the executor of the estate, who may then legally proceed to carry out the directives of the deceased according to the terms of the will.

- **Adjudicating.** The probate judge performs a number of other judicial activities. Rules about guardianship are now governed by the Alabama Uniform Guardianship and Protective Proceedings Act (Code of Alabama 1975 § 26-2A-1 through 26-2A-160). In the case of unmarried minor children, the probate judge appoints a guardian when there is no surviving parent and no designation of guardian by the parents. The probate judge may also appoint a guardian for an unmarried incapacitated person or an incompetent veteran (based on a request from the Veterans' Administration), in cases where no other guardian has been legally designated. Under the same law, a probate judge may appoint a conservator of property to protect the estate of a minor or incapacitated person, if one has not been legally designated. In all of these cases records of the guardian's or conservator's activities with regard to the ward or the estate are filed with the probate court.

Another major area of judicial responsibility is the determination of mental status and the commitment of individuals to the State Department of Mental Health. Any individual may file a petition in probate court requesting that another individual be involuntarily committed. A hearing is then set within 30 days of the date that the petition was served so that the probate judge may determine if the person named in the petition needs to receive outpatient or inpatient treatment. At the conclusion of the hearing, the judge issues an order for the least restrictive available alternative.

The probate court also has jurisdiction over adoptions. It receives petitions for adoptions, holds hearings, and issues final orders. A pre-placement investigation, normally performed by a representative of the State Department of Human Resources, provides the probate judge with information on which to base a decision regarding an adoption. In the past, all records relating to adoptions have been closed to inspection. During its most recent session, however, the state legislature granted adoptees over age 19 access to their original birth certificates, but this procedure is handled through the State Department of Public Health, rather than through the county probate offices.

A father wishing to legitimate a child must file a notice of declaration of legitimation with the probate court. After allowing the mother a period of time to respond, the court holds an informal hearing, after which the probate judge issues an order either granting or denying the declaration of legitimation.

- **Licensing.** Many probate offices perform licensing activities, although in some counties these duties have been transferred to the county taxation office or the license commissioner. In all counties, however, the probate office still issues marriage licenses (this activity is covered under the "Recording/Documenting Vital Information" subfunction). The other types of licenses issued by the probate office include driver's

licenses, conservation licenses (hunting, fishing, boating), motor vehicle licenses, scrap tire licenses, and all types of business, professional, and occupational licenses. The probate office collects fees for all of these licenses, although a portion of some of them is forwarded to other agencies, for example to the State Department of Conservation.

- **Administering Internal Operations.** Administering Internal Operations includes the following groups of activities:

Managing the agency. Activities include internal office management activities common to most government agencies, such as corresponding and communicating; scheduling; meeting; documenting policy and procedures; reporting; litigating; drafting, promoting, or tracking legislation; publicizing and providing information; managing records; and managing information systems and technology.

Managing finances. Activities include budgeting (preparing and reviewing a budget package, submitting the budget package to the county commission department of finance, documenting amendments and performance of the budget, and reporting on established budget categories); purchasing (requisitioning and purchasing supplies and equipment, accounting for expenditures, receipting and invoicing for goods, and authorizing payment for products received); accounting for the expenditure, encumbrance, disbursement, and reconciliation of funds within the agency's budget through a uniform system of accounting and reporting; authorizing travel; contracting with companies or individuals; bidding for products and services; assisting in the audit process; investing; and issuing bonds.

Managing human resources. Activities include recruiting and hiring eligible individuals to fill vacant positions within the agency; providing compensation to employees; providing benefits such as leave, health insurance, unemployment compensation, worker's compensation, injury compensation, retirement and death benefits; supervising employees by evaluating performance, promoting, granting leave, and monitoring the accumulation of leave; training and providing continuing education for employees; and disciplining.

Managing properties, facilities, and resources. Activities include inventorying and accounting for non-consumable property and reporting property information to the appropriate authority; constructing buildings and facilities; leasing and/or renting offices or facilities; providing security for property owned by the agency; and assigning, inspecting and maintaining agency property, including vehicles.

Records Appraisal of County Probate Offices

The following is a discussion of records created and/or maintained by the probate offices in Alabama, listed under their subfunctions. At the end of this records appraisal is a list of Records No Longer Created by the probate offices that may still be maintained in their offices.

Temporary Records

Temporary records should be held for what is considered to be their active life and disposed of once all fiscal, legal, and administrative requirements have been met. Records discussed here have been added, or revised in disposition, since the last revision of the RDA.

- **Election Administration Records.** These records document the probate office's conduct of elections in the county. Under their current disposition, they may include lists of poll workers or poll locations, election calendars, the probate judge's certification of county voting machines and unused ballots. However, recent contacts from probate offices (confirmed by the Secretary of State's Elections Division) indicate that many offices are already destroying unused ballots after an election. Unused ballots contain no voting or record information and cannot be reused. The Secretary of State's office sees little use in county election offices retaining them, and it concurs in removing unused ballots from the requirement to retain Election Administration Records for six or 22 months after an election. They may be destroyed after the results of the election have been certified.
- **Motor Vehicle Licensing Records - addition of Mandatory Liability Auto Insurance Forms.** These records document all aspects of the motor vehicle licensing process. Included in this edition of the RDA are Mandatory Liability Auto Insurance Forms, which are issued and collected whenever the probate office determines that a driver seeking to obtain or renew a driver's license or car registration has had his/her license suspended for not responding to an insurance verification letter from the state Department of Revenue (as required by the Alabama Mandatory Liability Insurance Act, Title 22, Chapter 7A of the Code of Alabama). Like other motor vehicle licensing records, this form is auditable but lacks the long-term value to warrant permanent retention. Retention for the usual "2 years following audit" was approved.

Permanent Records

The Archives Division recommends the following records as permanent:

Administering Elections

- **Official Record of Election Results.** Upon conclusion of the canvass of votes, the probate judge records the election results as determined by the canvassing board (the probate judge, circuit clerk, and sheriff). (See the Code of Alabama 1975 § 17-12-16.) This is the recorded copy of the Statement of Canvass for all elections to federal, state,

and local office and referenda, along with proofs of publication of election notices and the official record of any constitutional amendments.

Recording/Maintaining Legal Instruments and Verifications

- **Land Records.** Probate offices are required by the laws of Alabama to maintain many property records permanently. These records provide continuing evidence of title, ownership, and conveyance of property; they are used extensively to document the history of property in the state. Land records that must be kept in the probate office include the following: land patents, which record transfers of property from the national or state government to individuals; tract books, which record conveyances of U.S. government land to the state or to an individual; field notes, which document descriptions of property when it was first surveyed by the U. S. government; sixteenth section lands books, which record transactions regarding sixteenth section lands granted to the states by the U.S. government for the use of schools; plat books, which are property maps indicating the boundaries and measurements of each parcel of land; deed records, which document ownership of property, including right-of-way deeds; condominium and apartment ownership declarations and amendments; leases, including mineral, timber, and oil and gas leases; mortgage records; tax sale records, which document all land sold by the county for taxes; adverse possession records, which document claims by individuals to property when they do not hold title to it; and eminent domain records, which document government purchase of private property in order to carry out public improvements. In addition to their continuing legal value, these records are also historically significant.
- **Indices to Real Estate Conveyances.** The probate judge is required to maintain a general direct index and general reverse index of all real estate conveyances recorded in the county (Code of Alabama 1975 § 12-13-41). The general direct index is organized by the name of the instrument's conveyor. It provides the date of conveyance and the character and location of the recorded instrument. The general reverse index includes the same information but is organized by the name of the person to whom the conveyance is made. In many counties, these bound indices have been replaced by a unified, computerized index.
- **Official Bonds and Oaths.** Many county and municipal officials in Alabama must file performance bonds with the probate judge of their respective counties (Code of Alabama 1975 § 11-2-3). At the request of county probate staff, post-1940 bonds, which were reappraised for 10-year retention in 2008, are restored here to "permanent." Official Bonds and Oaths provide the most reliable historical documentation of anyone who ever held a county office. Information in them includes the name of the individual bonded, effective dates, amount of bond, bond sureties, and office that the individual is filling. They may also contain oaths of office and other performance surety bonds.
- **Records of Licensed Health Care Practitioners.** Individuals who are issued a license to practice medicine, dentistry, or certain other health care professions must file it in the probate office of the county where they practice. These records consist of copies of such

licenses issued by the State Medical Licensure Commission or other supervising authority. Information in each license includes the person's name, credentials, and date of licensure.

- **Marriage Records and Indices.** The probate marriage record consists of a transcription or photocopy of the marriage license application and a statement that the marriage has actually occurred. The marriage certificate is returned to the filers, and the marriage is recorded by the probate judge within 30 days. These records may also include an Affidavit of Age, if one is required. Marriage indices are used to locate specific marriage licenses.
- **Records of Honorable Discharge from the Military.** Any person who received an honorable discharge from the military may have it recorded by the probate judge in his or her current county of residence (Code of Alabama 1975 § 31-1-1). This series consists of transcriptions or photocopies of Department of Defense Form 214 (DD-214) and related forms that detail a service person's military career. Record information includes the soldier's name, birthdate, rank, awards, training, decorations, duty stations, and dates of service. Legislative Act 2003-302 made information in a DD-214 record confidential, save to the veteran and certain other persons excepted in the act. Code of Alabama 1975 § 41-13-6, passed in 2006, restricts the use of Social Security numbers on DD-214s and other documents that are available for public inspection.
- **Power of Attorney Records.** These statements, filed in the probate office, empower designated persons to exercise legal authority on behalf of those who are unable (due to minority or incapacity) to make valid legal decisions for themselves. Also included are records revoking the power of attorney. Under the Code of Alabama 1975 § 35-4-27, any power of attorney instrument duly recorded in the probate office, or a transcript thereof, "shall be received in evidence in any court of this state without further proof of the due execution of such instrument." Statements that confer "authority to convey property or to enter satisfaction of mortgages" become part of permanent land records (see Code of Alabama 1975 § 35-4- 28). Durable powers of attorney, moreover, are not affected by their principal's subsequent "disability, incompetency, or incapacity"; even the principal's death "does not revoke or terminate" the power of attorney or invalidate an attorney's actions taken in good faith (Code of Alabama 1975 § 26-1-2). Although our 2005 disposition statement requires power of attorney records to be retained "in the appropriate case file" until expiration, they often do not expire and are not always kept in case files. The ongoing legal importance of these records warrants permanent retention.
- **Newspapers.** A probate judge is required to subscribe to and keep copies of each weekly newspaper published in the county (Code of Alabama 1975 § 6-8-40). Daily newspapers may also be maintained in the probate offices, if they contain the office's legal notices. Maintaining copies of county newspapers documents fulfillment of the probate judge's legal responsibility to publish various public notices in the county press.
- **Miscellaneous Records.** These volumes have been created in some probate offices to incorporate various miscellaneous instruments recorded in the office that are not

voluminous enough to merit a separate record series. Examples of such records are naturalization papers; ordination papers; petitions; and satisfactions of liens, leases, and agreements. Some records included have significant historical or genealogical value.

- **Exemption Records.** Under the Code of Alabama 1975 § 6-10-20 through -43, individuals may file a record in the probate office of both personal and real property they own in order to protect a certain amount of that property from execution, attachment or garnishment for debts. Exemptions are also offered to surviving spouses and minor children (Code of Alabama 1975 § 6-10-80 through -107). Although the exemption is sometimes referred to in the law as a homestead exemption, these records do not document an exemption from property taxes. (For property tax exemption records, see the County Taxation Offices RDA). Often, these records provide information similar to that found in estate case files, which are also appraised as permanent.

Certifying Incorporations

- **Business Entity Records (formerly Corporation Records).** Under new legislation effective on January 1, 2011, a new Code of Alabama 1975 title, Title 10A, replaced Title 10, which formerly governed the formation of business corporations. The term “business entity” includes not only corporations, but non-profit associations, limited liability companies, trusts, and various other types of ventures (Code of Alabama 1975 § 10-2-1.40). Articles of incorporation for domestic businesses (businesses formed in the State of Alabama) are filed with the judge of probate before a certificate of incorporation is issued. The probate judge transcribes the article into the Business Entity Record and returns the original article to the business’s representative. Copies of these records are also filed by the probate judge with the Secretary of State, but the Secretary of State’s Office does not retain them permanently, save in imaged format. The probate office’s records offer the most complete historical documentation of corporations and other business entities in the state.
- **Municipal Incorporation Records.** The probate judge receives petitions from inhabitants of an unincorporated community who desire to become organized as a municipal corporation (Code of Alabama 1975 § 11-41-4). The petition states the proposed name of the municipality and has attached an accurate plat of territory within the corporate limits, including all subdivisions, lots, blocks, streets, and alleys. Incorporation records also provide documentation of the petitioners, including proof of residence and qualifications as electors. If an election for incorporation is held, the probate judge creates an order, which is entered into the minutes of the probate court. The judge then files a certified copy of the order of incorporation in the probate office’s corporation books and sends another certified copy to the Secretary of State. These records provide documentation of the history of municipalities within the state.

Establishing the Validity of Wills/Documenting the Administration of Estates

- **Will Records.** Upon the death of a testator, an executor, administrator, or other person interested in the estate may have the will probated, within five years, before the county

probate court. The probate judge then records the will and the testimony of witnesses (Code of Alabama 1975 § 43-8-169). This series consists of wills filed with the probate judge and detailing the division of decedents' property. Also included are affidavits of witnesses to wills and a certification endorsed by the probate judge. In some counties, these records may now be included in estate case files.

- **Estate Records.** The manner in which these files are maintained varies from county to county. Estate records may consist of: Inventory Records, Minutes and Records of Partial Settlement, Claims Dockets, Estate Final Records, and Estate Case Files. They include such documents as inventories, appointments of executors or administrators, certified letters testamentary, statements of accounts filed by executors or administrators of estates on an annual basis, lists of claims against an estate, statements of receipt and disbursement, lists of heirs, notices of hearings, powers of attorney, and records of the sale of real and personal property. Besides documenting an important function of the probate office, the records provide valuable historical and genealogical information. Two categories of records are exempted from permanent retention. (1) Post-1900 bonds filed by estate administrators, executors, and guardians are assigned a 20-year retention period. The Code of Alabama 1975 § 43-2-660 states that "it shall be conclusively presumed that final settlement of [an] estate has been made by the executor or administrator" after 20 years. (2) Post-1940 receipts, vouchers, checks and other accounting records are subject to the usual disposition for routine accounting records: "Retain 2 years following audit." The same disposition applies to post-1900 canceled checks that contain only the name of the payee, with no description of the services or items purchased. This schedule revises the 1975 cut-off date approved in the November 2011 edition of the RDA.

Adjudicating

- **Probate Dockets and Fee Books.** The probate judge maintains an up-to-date docket in his office (Code of Alabama 1975 § 12-13-41). This docket records information about each case brought before the probate court. Case entries should include: the date of the issuance and return of all process (legal documents), the day set for the hearing, the kind of notice ordered, the sheriff's returns, and other entries needed to show the status of all proceedings pending in the court. In some counties, accounting records are now computerized, and fee books may not be kept as separate volumes.
- **Probate Minutes/Records/Orders.** Each probate judge is required to maintain minutes of all official acts and proceedings and must record these actions in "well-bound books" within three months of their occurrence (Code of Alabama 1975 § 12-13-41). This record began as Orphans' Court Minutes in 1819. The content of Probate Minutes varies both by county and over time. In some cases, the record started out as brief chronological notes on the proceedings in a case. Over time, the notes disappeared and were replaced by various filings and orders for each case. There is much inconsistency, nowadays, in the way probate offices name and maintain this record. Probate courts do not generally keep minutes of hearings any longer, with the exception of incompetency hearings and contested hearings, which are recorded. In some counties, Probate Minutes consist only of the final orders in a case. Elsewhere, Probate Orders or Probate Records contain the same types of materials as Probate Minutes do in other counties. Although many counties

now keep these records as case files or in computerized format, some continue to create bound volumes. In any event, these records continue to have historical value in documenting decisions of the probate judge.

- **Involuntary Commitment Records.** Under certain conditions, a probate judge may commit a person to the custody of the Alabama Department of Mental Health (Code of Alabama 1975 § 22-52-1 through 22-52-14). This series consists of petitions, affidavits, patient history forms, correspondence, and orders of the probate court relating to commitment requests. Commitment hearings, and the resulting records, may be closed to the public upon written request of the respondent or attorney (Code of Alabama 1975 § 22-52-9). All would be closed under current federal HIPAA legislation.
- **Guardian and Conservator's Records.** Under circumstances outlined in the Code of Alabama 1975 § 26-2A-1 through 26-2A-160, the probate court has been required to appoint guardians for minors or incapacitated persons. More recently, the protection of minors has been left to family courts. This series may include applications, petitions, affidavits, records of bond, and orders of appointment relating to guardianships. In some counties, guardian records are filed with estate records. Some counties now create these records in family court instead of probate court. This edition of the RDA allows accounting records connected with post-1940 guardianships to be disposed of two years after the case is closed. There is a similar exemption for accounting records in post-1940 estate files, but guardian files are not subject to audit. The same disposition applies to post-1900 canceled checks that contain only the name of the payee, with no description of the services or items purchased. This schedule revises the 1975 cut-off date approved in the November 2011 edition of the RDA.
- **Adoption Records.** The probate court, upon petition, determines whether a child may be adopted by the petitioners (Code of Alabama 1975 § 26-10A-3). In the course of such proceedings, various documents are filed as evidence or information. In addition, all petitions and orders in adoption proceedings must be maintained. This series, which is restricted from public access by the Code of Alabama 1975 § 26-10-31, consists of petitions filed or orders given by the probate court during adoption proceedings. The Department of Public Health, Center for Health Statistics, maintains Final Decrees of Adoption permanently. Other permanent adoption records are maintained by the Department of Human Resources.
- **Legitimation Declarations.** This series consists of declarations by fathers acknowledging children who result from unwed births (Code of Alabama 1975 § 26-11-2). Information includes the child's name, age, and sex; mother's name; and signatures of the father and two witnesses. Such declarations are recorded in the probate minutes, and copies were formerly known as bastardy bonds.
- **Name Changes.** These records document instances when persons' names are legally changed due to divorce, adoption, or other circumstances. The records have ongoing legal value to the individual involved and, in some cases, may be important in criminal investigations (see the Code of Alabama 1975 § 15-20-36).

Licensing

- **Annual Listing of Businesses Licensed to Operate in the County.** Licensing divisions in some county probate offices may create an annual listing of licensed businesses that is compiled from business license applications. This record provides valuable historical information about business activities in a county in a given year.

Administering Internal Operations: Managing the Agency

- **Internal Policies and Procedures.** Probate offices create policies and procedures to document the office's responsibilities and daily activities. These records include sample forms, written policies and procedures, job descriptions, software listings, and software report capability listings. They document how the probate office conducts business and may have evidentiary value in case of litigation.
- **Probate Office History Records.** These files document the history of the county probate office and may include scrapbooks, ledgers or volumes, executive speeches, or newspaper clipping files pertaining to important events or issues in the office's history.
- **Annual Reports.** Some county probate offices may create an annual report to the county commission and to the public, setting out important accomplishments or changes in the office during the past year. Such a report is useful summary documentation of the office's activities for a given year.
- **Publicity and Informational Materials.** These are printed materials intended to publicize the probate office's programs and procedures. They may address such probate office responsibilities as voting requirements and procedures or requirements for probating an estate. In addition to providing useful information, they document the office's efforts to communicate with local citizens.
- **Websites and Social Media Sites.** A number of probate offices have developed websites and social media sites to respond to public inquiries and provide information on probate office procedures. In order to document these records over time, the disposition calls for a complete copy of the site to be preserved annually, or as often as significant changes are made.

Administering Internal Operations: Managing Finances

- **General Ledgers – general ledgers and detailed year-end trial balances created prior to 1975.** The general ledger is the record of final entry for all financial transactions: collecting fees and other revenue, purchasing, investing, administering state and federal funds, and general accounting. Originally, general ledgers were manually created; now, these records and another financial summary, the detailed year-end trial balance, are often electronically created. In the probate office, they also include any annual summaries of cashbook transactions. The RDA limits permanent retention to general ledgers and trial balances to records created before 1975. Later records retain the 10-year period previously approved for those in electronic format. Audit reports and permanent financial

records held by the county commission provide permanent documentation of the probate office's financial practices.

- **Audit Reports.** Audits of county probate offices are generally performed by the Examiners of Public Accounts on an annual basis. Audit reports are the primary documentation of the office's financial accountability to citizens.
- **Grant Project Final Narrative Reports.** Probate offices may receive both state and federal grants. Most documentation associated with these grants is short-term accounting material. The final narrative report, however, summarizes the goals of the grant, how the money was used, and what was accomplished.

Administering Internal Operations: Managing Human Resources

- **Employee Handbooks.** These handbooks may be created to provide guidance to new probate office employees about personnel rules and other policies and procedures. They serve as evidence of compliance with state and federal hiring practices and may be used in personnel-related litigation. Although this record and the next one are often created by county commissions or personnel departments, some probate offices create their own. Only in the latter case is the probate office copy permanent; otherwise, the county commission or personnel department maintains the record copy.
- **Employee Newsletters.** Employee newsletters offer a narrative of employment policies, employee programs and benefits, and information about individual employees. Along with the employee handbook, this record is the primary documentation of human resource management for the office.

Records No Longer Created

The following records are no longer created by the probate offices, but, in the case of the permanent records, they are required to be maintained under their supervision.

Temporary Records

- **Records of Removal of Nonage Disabilities.** Minors over the age of 18 may petition in juvenile court to be relieved of the disabilities of nonage, allowing them to convey property and enter into legal contracts. These records consist of transcriptions or photocopies of the court's judgments.

Permanent Records

- **Applications for Poll Tax Exemptions, Exemption Certificates, and Poll Tax Receipt Books.** The constitutional convention of 1901 required the tax collector of each county to submit to the probate judge an alphabetical list of all persons who had paid the poll tax (Code of Alabama, 1958 Recompiled § 51-247). These records document tax payment, as

well as individual exemptions. Like the tax itself, they were discontinued in 1966. Information in these records is duplicated in the Poll Tax Records.

- **Chattel Mortgage Records and Indexes.** Whenever a mortgage on personal property was made, it had to be recorded, within three months, in the county where the grantor resided and the property was located (Code of Alabama, 1958 Recompiled § 47-110). This series consisted of several security devices used to perfect transactions prior to the adoption of the Uniform Commercial Code by Alabama. Information in chattel mortgages generally included the names and addresses of the mortgagor and mortgagee, the type of property mortgaged, its price and the mortgage interest rate, the names of witnesses, the date of the transaction, entry information, and the probate judge's signature. The records began in 1907 and were replaced by Uniform Commercial Code Financing Statements in 1967. Those through approximately 1940 retain historical interest; thereafter, they become increasingly analogous to UCCs.
- **Estray Records.** The probate office formerly recorded notices of impoundment of stray cattle or other domestic animals. Such "quaint" records are good candidates for historical preservation.
- **Poll Tax Records.** Although poll tax records were first compiled ca. 1870, the constitutional convention of 1901 required the tax collector of each county to submit to the probate judge an alphabetical list of all persons who had paid the poll tax (Code of Alabama, 1958 Recompiled § 51-247). Some counties maintained their lists as bound volumes, others as card files. Information in the records varied by county, but it often included the taxpayer's name, address, voting district and beat, race, sex, birth date, date first poll tax was due, dates poll tax was paid, and payment number. Some later cards also contained Social Security numbers. These were not restricted records. Poll tax records help to document racial, economic, and gender discrimination in Alabama for the first six decades of the twentieth century and are therefore appraised as permanent. They were discontinued in 1966.
- **Records of Birth.** Beginning in 1881 each Alabama county was required to have a county health officer and, after 1919, a local registrar of vital statistics, who recorded all births within the county. Birth records were filed with the probate judge after 1907 (Acts of Alabama 7, p. 893 [1907]). Within a few years the Department of Public Health, Bureau of Vital Statistics, began to collect them. They were generally discontinued at the county level around 1940. Information in these records included the baby's name, date and place of birth, sex, and race, as well as parental information and the name of the attending physician or midwife. Birth records have both evidentiary value and historical importance.
- **Records of Death.** Death records were maintained by the counties from 1881 until approximately 1940, under circumstances similar to those outlined for birth records. Information in this series includes the decedent's name, place of death and registration district, sex and race, date of birth, cause of death, names of family members, name of

attending physicians, and place of burial. This record also has evidentiary and historical value.

- **Child Labor Affidavits.** Under Code of Alabama 1907 § 6434, no child under the age of 18 could be employed in a mill, factory, or manufacturing establishment unless an affidavit signed by the parent or guardian was filed with the probate judge by the employer. The affidavit contained information of ongoing historical value, such as the child and parents' names, the child's date and place of birth, and the place of employment. This record was discontinued around 1920.
- **Marks and Brands Registration Records.** This series served to record the earmarks and brands used by cattlemen to distinguish their animals from their neighbors' (Code of Alabama 1923 § 8987 through § 8988). These bound volumes contain transcriptions or photo-duplications of the marks and brands entered. The Department of Agriculture and Industries now maintains these records.
- **Road Books.** From 1820 through 1923, each probate judge was required to maintain a Road Book that provided information on all public roads within the county (Code of Alabama 1907 § 5814). These books usually included the name and grade of roads, the names of road apportioners, and the overseers for each section of road. The records document early road construction in the counties.
- **Road Tax Records and Receipts.** All men were required annually to perform ten days' labor on county roads unless exempted. In lieu of performing such work, a man could pay a road tax or commutation payment. The amount was set by the commissioner's court, but was not to exceed ten dollars a year. This series documents the payment of such taxes.
- **Notices of Appointment of Road Apportioners and Overseers.** These records document the county commission's appointment of overseers of road precincts. Information in them included the county's name, the names of individuals appointed as apportioners or overseers, the date of appointment, the name of the electoral precinct, and the judge of probate's signature.
- **Confederate Pension Records.** Alabama's state legislature authorized pensions for certain Confederate veterans in 1899. These records were used at the county level to administer the pensions. Information contained in them generally included the name of the veteran or widow, place of residence, dates and branch of service, date of birth, remarks, and class and amount of the pension. Confederate Pension Records have historical significance in documenting service by Alabama residents during the Civil War.
- **Census of Confederate Veterans.** The state auditor prepared an alphabetical record of all Confederate pensioners, arranged by county, and each probate judge received a list of the county's pensioners. Information in these census records included the pensioner's full name, address, date and place of birth, rank and date of entry into service, name and letter

of company and regiment, and date and place of discharge or separation. These records have historical significance in documenting the participation of Alabama residents during the Civil War.

- **Records of Convicts Sentenced to Hard Labor/Penitentiary Convict Records/Criminal Contract Records.** These records document the county's leasing of convicts sentenced to hard labor to private companies or individuals. Although created by the county commission, such records were often maintained by the judge of probate. Information in them included each convict's name, sex, race, type of crime, and length of sentence; the name of the contractor and terms of the contract; the presiding judge's approval; and certification by the judge of probate. The practice was discontinued in 1929 following a decision by the Alabama Supreme Court that leasing convicts to private entities amounted to involuntary servitude.
- **Juvenile Trial Dockets and Records.** Until 1977 the probate courts had exclusive jurisdiction over all proceedings that pertained to county juveniles. Such cases typically involved a determination of neglect, dependency, or delinquency. This series consists of printed forms listing the names of the juvenile and witnesses, the date and nature of the complaint, the date of summons, and any orders of the court. Although discontinued in 1977, these records remain permanent due to their evidentiary value.
- **Dower Records.** Under Alabama law, a husband could not disinherit his wife from property which she had brought into the marriage. The estate of a dower, which protected a surviving wife from disinheritance, was abolished by the legislature in 1982. Protection for surviving spouses is now provided in other sections of the Code. This series consists of bound volumes recording information about each widow's claim against her husband's estate, including the name of the deceased, the wife's name, and affidavits regarding the dower. Dower records have historical significance in documenting the legal status of women during the period of their creation.
- **Apprenticeship Records.** These records document a legal agreement by which an individual, usually a minor, is bound to a master to serve under him for a certain period of time in order to learn a craft or trade. The records may include bonds, permissions, or other agreements that document the terms of the apprenticeship. They represent historical evidence of an alternative to formal education that no longer exists.
- **Delayed Certificates of Birth.** This certificate (filed when a birth occurred more than twelve days before filing) is based on a court order or decree. Certified copies are recorded in the county probate office and in the Center for Health Statistics (Acts of Alabama, 1992, No. 92-607, Section 9). This series consists of forms that provide information on the birth, such as date and place of birth, race, and father and mother's names. Because this record is now seldom created in county probate offices, it has been moved from the "active" to the "obsolete" section in this edition of the RDA. Disposition remains permanent.

Permanent Records List County Probate Offices

Administering Elections

1. Records of Election Results – official record of election results

Recording/Maintaining Legal Instruments and Verifications

1. Land Records
2. Indices to Real Estate Conveyances
3. Official Bonds and Oaths
4. Records of Licensed Practitioners of Medicine
5. Marriage Records and Indices
6. Records of Honorable Discharge from the Military
7. Newspapers
8. Miscellaneous Records
9. Exemption Records

Certifying Incorporations

1. Business Entity Records
2. Municipal Incorporation Records

Establishing the Validity of Wills/Documenting the Administration of Estates

1. Will Records
2. Estate Records

Adjudicating

1. Probate Dockets and Fee Books
2. Probate Minutes/Records/Orders
3. Involuntary Commitment Records
4. Guardian Records
5. Adoption Records
6. Legitimation Declarations

Licensing

1. Annual Listing of Businesses Licensed to Operate in the County

Administering Internal Operations: Managing the Agency

1. Internal Policies and Procedures
2. Probate Office History Records
3. Annual Reports
4. Publicity and Informational Materials
5. Websites and Social Media Sites

Administering Internal Operations: Managing Finances

1. Accounting Records – general ledgers and detailed year-end trial balances created prior to 1975
2. Audit Reports
3. Federal and State Grant Project Files – final narrative reports

Administering Internal Operations: Managing Human Resources

1. Employee Handbooks
2. Employee Newsletters

Records No Longer Created

1. Applications for Poll Tax Exemptions, Exemption Certificates, and Poll Tax Receipt Books
2. Chattel Mortgage Records and Indices – created prior to 1940
3. Estray Records
4. Poll Tax Records
5. Records of Birth
6. Records of Death
7. Child Labor Affidavits
8. Marks and Brands Registration Records
9. Road Books
10. Road Tax Records and Receipts
11. Notices of Appointment of Road Apportioners and Overseers
12. Confederate Pension Records
13. Census of Confederate Veterans
14. Records of Convicts Sentenced to Hard Labor/Penitentiary Convict Record/Criminal Contract Records
15. Juvenile Trial Docket and Records
16. Dower Records
17. Apprenticeship Records
18. Delayed Certificates of Birth

County Probate Offices Records Disposition Authority

This Records Disposition Authority (RDA) is issued by the Local Government Records Commission under the authority granted by the Code of Alabama 1975 § 41-13-5 and 41-13-22 through 24. It was compiled by the Archives Division, Alabama Department of Archives and History (ADAH), which serves as the Commission's staff, in cooperation with representatives of the County Probate Offices. The RDA lists records created and maintained by the Agency in carrying out their mandated functions and activities. It establishes minimum retention periods and disposition instructions for those records and provides the legal authority for the Agency to implement records destruction.

Alabama law requires public officials to create and maintain records that document the business of their offices. These records must be protected from "mutilation, loss, or destruction," so that they may be transferred to an official's successor in office and may be made available to members of the public. Records also must be kept in accordance with auditing standards approved by the Examiners of Public Accounts (Code of Alabama 1975 § 36-12-2, 36-12-4, and 41-5-23). For assistance in implementing this RDA, or for advice on records disposition or other records management concerns, contact the agency records manager or ADAH Archives Division at (334) 242-4452.

Explanation of Records Requirements

The RDA shall govern the disposition of all records, regardless of format, created by the agency from creation to dissolution. Please contact the staff of the Department of Archives and History before destroying any records created prior to 1940.

This RDA supersedes any previous records disposition schedules or RDAs governing the retention of the records created by the Agency. Copies of superseded schedules are no longer valid and may not be used for records disposition.

The RDA establishes retention and disposition instructions for records listed below, regardless of the medium on which those records may be kept. Electronic mail, for example, is a communications tool that may record permanent or temporary information. As for records in any other format, the retention periods for e-mail records are governed by the requirements of the subfunctions to which the records belong.

Certain other record-like materials are not actually regarded as official records and may be disposed of under this RDA. Such materials include (1) duplicate record copies that do not require official action, so long as the creating office maintains the original record for the period required; (2) catalogs, trade journals, and other publications received that require no action and do not document agency activities; (3) stocks of blank stationery, blank forms, or other surplus materials that are not subject to audit and have become obsolete; (4) transitory records, which are temporary records created for short-term, internal purposes, may include, but are not limited to, telephone call-back messages, drafts of ordinary documents not needed for their evidential value, copies of material sent for information purposes but not needed by the receiving office for future business, and internal communications about social activities; (5) honorary materials, plaques,

awards, presentations, certificates, and gifts received or maintained by the agency staff. They may be disposed of without documentation of destruction.

Records Disposition Requirements

This section of the RDA is arranged by subfunctions of the Agency and lists the groups of records created and/or maintained as a result of activities and transactions performed in carrying out these subfunctions. The Agency may submit requests to revise specific records disposition requirements to the Local Government Records Commission for consideration at its regular biannual meetings.

Administering Elections

1.01 Election Administration Records. These records document the probate office's conduct of elections in the county. They may include lists of poll workers or poll locations, election calendars, and the probate judge's certification of county voting machines.

a. **Elections with no federal races on the ballot.**

Disposition: Temporary Record. Retain 6 months after the election.

b. **Elections with federal races on ballot.**

Disposition: Temporary Record. Retain 22 months after the election.

Note: If the election is contested or results in litigation, retain all materials until contest is resolved, litigation is terminated, and all appeals are exhausted.

Note: The following statement applies only to counties where a probate staff member serves as the absentee election manager:

After the election, "return all unused absentee election materials to the Secretary of State, along with an itemized signed statement showing the description and quantity of each item of absentee election material not utilized by the county or municipality in the election just concluded" (Code of Alabama 1975 § 17-10-24).

Records Management Recommendation: The Secretary of State's Office suggests that pens, pencils, surplus paper (not including unused ballots), and other "office"-type election supplies may be reused after the election.

Note: Unused ballots may be destroyed after the results of the election have been certified.

1.02 Candidate Records. These records document candidates involved in local elections; they may include petitions, declarations of candidacy, and certifications.

a. **Elections with no federal races on ballot.**

Disposition: Temporary Record. Retain 6 months after the election.

b. **Elections with federal races on ballot.**

Disposition: Temporary Record. Retain 22 months after the election.

Note: If the election is contested or results in litigation, retain all materials until contest is resolved, litigation is terminated, and all appeals are exhausted.

1.03 Lists of Registered Voters. These certified, alphabetical lists of voters are taken from the statewide voter registration list and published in a local newspaper by the probate judge 20 days prior to the election (Code of Alabama 1975 § 17-4-1[2006]).

Disposition: Temporary Record. Retain until superseded.

1.04 Precinct Records.

a. **Copies of maps of county electoral precincts.** These maps show the current geographical boundaries and legal descriptions of county electoral precincts.

Disposition: Temporary Record. Retain until superseded.

b. **Precinct recapitulation sheets.** Recapitulation sheets from each polling place are completed when the votes are counted. They report the number of votes for and against each candidate, proposed constitutional amendment, or other referendum on the ballot.

i. **Elections with no federal races on ballot.**

Disposition: Temporary Record. Retain 6 months after election.

ii. **Elections with federal races on ballot.**

Disposition: Temporary Record. Retain 22 months after the election.

c. **Precinct certificate of result of election.** These records summarize election results for each precinct. They are prepared by officials at each polling place and transferred to the canvassing board.

i. **Elections with no federal races on ballot**

Disposition: Temporary Record. Retain 6 months after the election.

ii. **Elections with federal races on ballot**

Disposition: Temporary Record. Retain 22 months after the election.

1.05 Records of Election Results.

a. **Statement of canvass.** The official declaration of results (including the report of results by precinct) of an election held within a county, excluding a political party primary election. It is signed by the canvassing board (probate judge, circuit clerk, and sheriff).

i. Election results for any state office, federal office, or constitutional amendment.

Disposition: Transfer one copy to the Office of the Secretary of State.

- ii. Election results for any state office, federal office, or constitutional amendment.
Disposition: Transfer one copy to the Office of the Secretary of State.

- b. **Official record of election results.** This is the recorded copy of the Statement of Canvass for all elections to all elections for federal, state, and local office and referenda, along with proofs of publication of election notices and the official record of any proposed constitutional amendments.
Disposition: PERMANENT RECORD.

1.06 Election Poll Lists. These are lists of qualified voters prepared by the probate judge from the statewide voter registration list. They designate eligible voters at each polling place. Also included are voters' poll lists, the numbered lists signed by voters prior to voting.

- a. **Elections with no federal races on ballot.**
Disposition: Temporary Record. Retain 6 months after the election.
- b. **Elections with federal races on ballot.**
Disposition: Temporary Record. Retain 22 months after the election.

Note: If the election is contested or results in litigation, retain all materials until contest is resolved, litigation is terminated, and all appeals are exhausted.

1.07 Statements of Campaign Expenditures. These are financial statements required from each candidate for local office or political action committee involved in a local election. They include the names of contributors of over \$100; lists of gifts, loans, and contributions; lists of expenditures over \$100; the purpose of each expenditure; and an affidavit by the campaign treasurer attesting to the statement's validity.
Disposition: Temporary Record. Retain 25 years after date of filing.

1.08 Ballots. Ballots from each election are sealed and maintained by the sheriff for the required retention period (Code of Alabama 1975 § 17-12-7). These records include all provisional ballots, whether or not counted in the final results of the election.

- a. **Elections with no federal races on ballot**
Disposition: Temporary Record. Retain 6 months after the election.
- b. **Elections with federal races on ballot**
Disposition: Temporary Record. Retain 22 months after the election.

Note: If the election is contested or results in litigation, retain all materials until contest is resolved, litigation is terminated, and all appeals are exhausted.

1.09 Appeal Files of Rejected Voter Applications. Appeals of rejected voter applications must be filed in the probate office within 30 days of the rejection (Code of Alabama 1975 § 17-3-55). These records are case files of appealed rejected voter applications.

Disposition: Temporary Record. Retain 2 years after probate judge's order is issued. If appealed, retain 2 years after notice of final judgment is received.

Recording/Maintaining Legal Instruments and Verifications

2.01 Land Records. The following land records represent evidence of title, ownership, and conveyance. They are mentioned in various sections of the Code of Alabama 1975 as instruments to be recorded and maintained in the county probate office: Land Patent Records, Tract Books, Field Notes, Sixteenth Section Lands Books, Plat Books, Deed Records (including Right-of-Way Deed Records and Leasing Records), Mortgage Records, Tax Sale Records, Adverse Possession Records, Eminent Domain Records, Condominium/Apartment Ownership Records.

Disposition: PERMANENT RECORD.

2.02 Indices to Real Estate Conveyances. Probate offices create two types of indices for real estate conveyances. The general direct index is organized by the name of the conveyor of the property; the general reverse index is organized by the name of the individual or group to whom the property is conveyed. Some county probate offices now create and maintain these indices electronically.

Disposition: PERMANENT RECORD.

2.03 Lis Pendens Records.

- a. **Notices.** Notices are filed in the probate office announcing the commencement of civil actions or proceedings involving land in the county. They provide notice of pending action to potential buyers.

Disposition: Temporary Record. Retain 25 years.

- b. **Indices to lis pendens records (where separately kept)**

Disposition: Temporary Record. Retain until destruction of the indexed records.

2.04 Delinquent Tax Docket. These dockets contain lists of taxpayers who have not paid property taxes as of January 1 of each year, for the collection period ending December 31 of the previous year. They may be held by the county revenue department, along with records that document collection.

Disposition: Temporary Record. Retain 10 years.

2.05 Certificates of Land Redemption. These records document delinquent taxpayers' redemption, within the three-year period allowed by law, of land sold for taxes. The certificates are also recorded in the delinquent tax docket.

Disposition: Temporary Record. Retain 2 years following audit.

2.06 Deed or Mortgage Tax Records. These records document payment of deed or real estate mortgage taxes.

Disposition: Temporary Record. Retain 2 years following audit.

2.07 Mineral Documentary Tax Records. These records document payment of a transfer tax on mineral leases, paid at the time the lease is recorded and filed. They include monthly reports from the probate office to the State Department of Revenue.

Disposition: Temporary Record. Retain 2 years following audit.

2.08 Uniform Commercial Code (UCC) Financing Statements (UCCs). These records document the submission of forms by lenders to perfect a security interest in collateral or document a federal tax lien. They include forms UCC 1, UCC 3, UCC 11, UCC 13, and Federal Tax Lien Forms F668(A-Z) rev. 1991, terminations, amendments, and continuations.

a. **UCCs, continuation statements and amendments**

Disposition: Temporary Record. Retain 5 years.

b. **Mobile home financing statements**

Disposition: Temporary Record. Retain until Termination Statement is filed or until expiration date, if effectiveness is not stated on original UCC.

c. **Termination statements**

Disposition: Temporary Record. Retain until expiration date.

d. **Federal tax liens**

Disposition: Temporary Record. Retain 1 year after account is satisfied or the 12-year statutory period for collection has expired.

e. **Additional security for mortgages.**

Disposition: Temporary Record. Retain until release of mortgage.

2.09 Indices and Numerical Abstracts to Uniform Commercial Code (UCC) Financing Statements. These indices and abstracts may assist in locating UCCs, where such records are not computerized. UCCs are indexed byname of the debtor; abstracts are arranged by UCC file number.

Disposition: Temporary Record. Retain until expiration of UCC financing statements.

2.10 State Tax Lien Filings. These records document the filing of liens by the State Department of Revenue to recover taxes owed when individuals fail to pay required income or other taxes to the state.

Disposition: Temporary Record. Retain 1 year after account is satisfied or the 20-year common law period for collection has expired.

2.11 Judgment and Lien Records.

- a. **Judgment and lien records.** These records document any court judgment creating a lien; hospital liens for payment of medical bills; or liens by an individual, firm, or corporation to recover for services rendered (mechanics liens).

Disposition: Temporary Record. Retain 2 years after satisfaction of the lien.

- b. **Indices to judgment and lien records**

Disposition: Temporary Record. Retain until destruction of the indexed records.

2.12 Official Bonds and Oaths. These records document the filing of official bonds by local officials. In addition to the bonds themselves, they may include oaths of office, powers of attorney, statements, and other performance surety bonds.

Disposition: PERMANENT RECORD.

2.13 Notary Records. These records document the recording of notary public's bonds and notifications to the Secretary of State of the appointment of notaries. They may also include correspondence with bonding companies and/or notaries who resign or have their appointments revoked.

- a. **Applications, resignations, revocations, and related correspondence.**

Disposition: Temporary Record. Retain until expiration of current term.

- b. **Bonds.**

Disposition: Temporary Record. Return original to appointee after recording. For unreturnable originals, retain until expiration of current term.

- c. **Reports of notary appointments.**

Disposition: Temporary Record. Retain 2 years following audit.

2.14 Bonds Filed by Occupational Licensees. These records document the recording of bonds, or copies of bonds, required to be filed in the probate office by various occupational licensees, such as warehousemen, plumbers, or bartenders, and pool halls. Many counties no longer require these bonds to be posted in the probate office, although they may be notified by bonding companies of bonds filed there.

Disposition: Temporary Record. Retain 3 years after the period allowed for renewing the license has expired.

2.15 Records of Licensed Health Care Practitioners. These records document the filing of licenses to practice by doctors, dentists, and other healthcare professionals who are required to file copies of their licenses with the probate office in the county where they practice.

Disposition: PERMANENT RECORD.

2.16 Marriage License Applications. These records, filed as license applications, document the intention of couples to marry in the county. They may include accompanying documentation of eligibility, such as affidavits of age, parental consent forms, and prenuptial medical examination certificates.

Disposition: Temporary Record. Retain 2 years following audit.

2.17 Marriage Records and Indices. Marriage records consist of a copy of the marriage license application and a certificate from the individual performing the marriage; both are recorded in the probate office. Indices to marriage records are not required by law, but many probate offices create them.

Disposition: PERMANENT RECORD.

2.18 Records of Honorable Discharge from the Military. Records of military service are filed in the probate office by individuals who have received an honorable discharge from the military. They may include copies of DD214 forms and other information about an individual's military career. Note: Alabama Act 2003-302 made information in DD214 records confidential, except to the subject of the record; the subject's spouse or next of kin; any person to whom the subject has granted power of attorney; or the subject's administrator, executor, guardian, or legal representative. See the Code of Alabama 1975 § 31-1-1C. The Code of Alabama 1975 § 41-13-6 [2006] restricts the use of Social Security numbers on these and other documents that are available for public inspection.

Disposition: PERMANENT RECORD.

2.19 Power of Attorney Records. These statements, filed in the probate office, empower designated persons to exercise legal authority on behalf of those who are unable (due to minority or incapacity) to make valid legal decisions for themselves. Also included are records revoking the power of attorney.

Disposition: PERMANENT RECORD.

2.20 Newspapers. Weekly newspapers, as well as other newspapers published in the county, contain legal notices that the probate office is required to issue. They provide evidence that the office fulfilled its statutory responsibility to publish such notices in the local press.

Disposition: PERMANENT RECORD (Code of Alabama 1975 § 6-8-40).

2.21 Miscellaneous Records. These records include miscellaneous instruments filed in the probate office. The kinds of records filed as “miscellaneous,” rather than as separate series, may vary from county to county. Examples may include naturalizations; ordinations; and satisfactions of liens, leases, and agreements.

Disposition: PERMANENT RECORD.

2.22 Exemption Records. These records document an individual’s request to protect a certain amount of personal and/or real property from execution, attachment, or garnishment. They include requests to the court and detailed lists of exempted property and its value.

Disposition: PERMANENT RECORD.

2.23 Unclaimed Original Recorded Instruments. This item provides disposition for the original paper copy of any probate record that was never picked up by the citizen who filed it, could not be delivered to the citizen by mail, or otherwise remains unclaimed.

Disposition: Temporary Record. Retain 1 year after instrument is recorded. Verify that the record information is accurately recorded elsewhere before destroying the original.

Note: This disposition is authorized only for original, unclaimed paper records created after 1900. It requires the probate office to maintain another copy of the record for the full retention period mandated elsewhere in this RDA, whether in paper, microform, or electronic format.

Certifying Incorporations

3.01 Business Entity Records (formerly Corporation Records). These records document the incorporation of corporations and other kinds of business entities under the laws of Alabama.

They include articles of incorporation, amendments to the articles, articles of merger and consolidation, and articles of dissolution.

Disposition: PERMANENT RECORD.

3.02 Municipal Incorporation Records. These records document the incorporation of communities within the county into towns or cities. The records include petitions from citizens requesting incorporation, plats of the proposed municipalities, and other materials submitted by petitioners.

Disposition: PERMANENT RECORD.

Establishing the Validity of Wills/Documenting the Administration of Estates

4.01 Will Records. Generally compiled in volumes, these records consist of transcriptions of wills, affidavits of witnesses to wills, and certifications by the judge of probate.

Disposition: PERMANENT RECORD.

4.02 Estate Records. These records document the administration of estates. They may contain inventory records, minutes and records of partial settlement, claims dockets, estate final records, and estate case files. Documents may include inventories, appointments and bonds of administrators or executors, certified letters testamentary, statements of accounts for estates settled on an annual basis, lists of heirs, lists of claims against estates, records of final settlement, notices of hearings, powers of attorney, and records of the sale of real or personal property. Disposition of the records is as follows:

a. **Post-1940 routine accounting records (vouchers, checks, receipts, etc.).**

Disposition: Temporary Record. Retain 2 years following audit.

Note: This disposition also applies to post-1900 canceled checks that contain only the name of the payee, with no description of the services or items purchased.

b. **Post-1900 executors'/administrators'/guardians' bonds.**

Disposition: Temporary Record. Retain 20 years after final entry.

c. **All other records.**

Disposition: PERMANENT RECORD.

4.03 Original Claims Against Estates. These are records from claimants seeking payment from an estate. Once the claim is filed in the claims docket, these records are no longer used. Disposition: Temporary Record. Retain until estate is closed and final settlement is recorded.

Adjudicating

5.01 Probate Docket and Fee Books. These books record information about each case brought before the probate court. Information in them includes documentation of notification, dates of hearings, fees accrued, and other information indicating the status of the case. Disposition: PERMANENT RECORD.

5.02 Probate Minutes/Records/Orders. These records document official acts and proceedings of the probate court, as required by the Code of Alabama 1975 § 12-13-41. They include Orphans Court Minutes. The name and contents of these records may vary from county to county, but they generally include the final order in a case and (often) petitions, other filings, and a brief summary of the case. Disposition: PERMANENT RECORD.

5.03 Involuntary Commitment Records.

- a. **Records documenting the probate judge's commitment of individuals to the Department of Mental Health.** These records may include petitions, affidavits, case file materials, correspondence, and orders. Some probate offices also maintain books that record commitments ordered.
Disposition: PERMANENT RECORD.
- b. **Recordings of involuntary commitment hearings.** Hearings may be recorded in tape or electronic format during the preparation of the official documentation.
Disposition: Temporary Record. Retain 3 years from the date the involuntary commitment petition is granted or denied and not less than the duration of any commitment pursuant to such hearing.

Note: Under the Code of Alabama 1975 § 22-52-9, these records may be restricted upon written request of the respondent or attorney. All commitments would be restricted under current federal HIPAA legislation.

5.04 Guardian Records. These records document the probate judge's appointment of a guardian for minors or incapacitated persons. They may include applications, petitions, affidavits, bond records, and orders of appointment and may be in either volume or case file format.

- a. **Post-1940 routine accounting records (vouchers, checks, receipts, etc.).**
Disposition: Temporary Record. Retain 2 years after case is closed.

Note: This disposition also applies to post-1900 canceled checks that contain only the name of the payee, with no description of the services or items purchased.

- b. **All other records.**
Disposition: PERMANENT RECORD.

5.05 Fiduciary Fund Records. These records document the probate judge's role as custodian of funds for certain minors or incapacitated persons. They include identifying information, account transactions, and receipts.

Disposition: Temporary Record. Retain 10 years after account is closed.

5.06 Adoption Records.

- a. **Records documenting the adoption proceedings.** These records include petitions, orders, reports from the Department of Human Resources, and all other documents filed with the court.
Disposition: PERMANENT RECORD.

- b. **Recordings of adoption proceedings.** Proceedings may be recorded in tape or electronic format during the preparation of the official documentation.
Disposition: Temporary Record. Retain 3 years from the date the adoption petition is granted or denied.

Note: Public access to these records is restricted under the Code of Alabama 1975 § 26-10A-31.

5.07 Legitimation Declarations. These records document fathers' acknowledgment of children born out of wedlock.
Disposition: PERMANENT RECORD.

5.08 Name Changes. These records document instances when persons' names are legally changed due to divorce, adoption, or other circumstances.
Disposition: PERMANENT RECORD.

5.09 Child Support Reimbursement Requests. Certain cases require one parent to pay child support to the custodial parent. If it is later determined that the amount of child support paid to the custodial parent was unwarranted/unnecessary, a child support reimbursement request is filed.
Disposition: Temporary Record. Retain 2 years after case is closed.

Licensing

6.01 Motor Vehicle Licensing Records. These records document all aspects of the motor vehicle licensing process. They include abstracts of motor vehicle assessments; title application records; specialty license authorization forms; mandatory liability auto insurance forms; registration tag and tax receipts; transfer reports; and non-record licensing materials, such as surrendered license plates and obsolete or unused validation decals and license plates issued to the probate office but never distributed.

- a. **Surrendered license plates, obsolete or unused validation decals and license plates.**
Disposition: Temporary Record. Retain until audited.
- b. **All other records.**
Disposition: Temporary Record. Retain 2 years following audit.

6.02 Driver's License Records. These records document the issuance and renewal of driver's licenses and learner's permits. They include copies of licenses and permits, as well as routine statistical and financial reports to the Department of Public Safety, State Comptroller, and State Treasurer.
Disposition: Temporary Record. Retain 2 years following audit.

6.03 Business and Occupational Licensing Records. These records document the issuance of business and occupational privilege licenses. They include licenses, license renewal notices, receipts, and periodic reports.
Disposition: Temporary Record. Retain 2 years following audit.

6.04 Business License Citation Records. These records document citations issued by license inspectors for non-compliance with business license requirements.
Disposition: Temporary Record. Retain 2 years following the audit period in which violation was corrected.

6.05 Annual Listing of Businesses Licensed to Operate in the County. Some counties create an annual summary list of businesses that are currently operating in the county. Compiled from business license records, the lists include information on the nature and location of each business.
Disposition: PERMANENT RECORD.

6.06 Licensing Records: Other Categories. In addition to motor vehicle, driver's, and business licenses, counties may issue other types of licenses or license renewals. They may include boating, hunting and fishing (conservation) licenses. The records document activities involved in issuing or renewing such licenses; they include application forms, receipts, inventory reports, and reports to overseeing agencies.
Disposition: Temporary Record. Retain 2 years following audit.

6.07 Passport Application Transmittal Forms. Some county probate offices receive citizens' passport applications and collect a fee for transmitting them to the U.S. Department of State. These records contain applicants' names, birthdates, telephone numbers, and intended departure dates, as well as information on fees collected by the probate office.
Disposition: Temporary Record. Retain 2 years following audit.

6.08 Notary Certifications for Overseas Adoptions. Some county probate offices receive notary certifications of eligibility for persons who are applying to adopt children born overseas. The office collects a fee for transmitting this information to the U.S. Department of State's Immigration and Naturalization Service. This record documents only the fee collection and transmittal process, as the probate office is not responsible for documenting the adoption.
Disposition: Temporary Record. Retain 2 years following audit.

6.09 Citizenship/Legal Immigration Status Verification Records. These records document enforcement of Section 30 of Alabama Act 2011-535, commonly known as the Immigration Act. They consist of copies of specified types of identifying documents (e.g., valid driver's licenses, birth certificates, naturalization documents) that verify the U.S. citizenship, or legal immigration status, of persons applying for or renewing motor vehicle license plates, driver's licenses, non-driver identification cards, or business licenses. Disposition also covers any forms created by the agency to facilitate enforcement of the act.

Note: Return original verification documents to license applicant.

- a. **Records collected during driver's licensing.**
Disposition: Temporary Record. Retain 4 years.

- b. **Records collected during motor vehicle registration or business licensing** (including non-driver identification cards).
Disposition: Temporary Record. Retain 2 years following audit.

Administering Internal Operations: Managing the Agency

7.01 Internal Policies and Procedures. These records document the probate office's internal policies and procedures, such as accounting standards developed in response to the Examiners of Public Accounts' requirements or hiring and personnel policies.
Disposition: PERMANENT RECORD.

7.02 Annual Reports. The probate office may prepare annual narrative summaries of activities in order to inform the public.
Disposition: PERMANENT RECORD.

7.03 Probate Office History Records. These records may include scrapbooks, newspaper clippings, ledgers, photographs, videotapes, or volumes compiling historical information about the probate office.
Disposition: PERMANENT RECORD.

7.04 Publicity and Informational Materials. These records may include news releases, newsletters, brochures, periodicals, photographs, videotapes, audiotapes, speeches, and public service announcements.
Disposition: PERMANENT RECORD.

7.05 Administrative Reference Files. These are materials not created by the probate office that are collected and used only as reference sources of information.
Disposition: Temporary Record. Retain for useful life.

7.06 Legislative Reference Files.

- a. **Legislative tracking files.** These records are created to track draft legislation in the Alabama legislature. They include copies of draft legislation, statistics, names of legislative sponsors, roll call votes, position papers, and correspondence.
Disposition: Temporary Record. Retain for useful life.
- b. **Code of Alabama**
Disposition: Temporary Record. Retain in office until superseded.
- c. **Acts of Alabama**
Disposition: Temporary Record. Retain in office until amended.
- d. **House and Senate Journals**
Disposition: Temporary Record. Retain in office until superseded.

Records Management Recommendation: Before deciding to destroy old editions of the Code of Alabama, Acts of Alabama, or House and Senate Journals, offer them for placement in a local library, archives, or historical society. Many of these records are now available online.

7.07 Routine Correspondence. This correspondence documents day-to-day operations of the probate office. It relates to everyday matters – such as answering inquiries, providing information, or performing mandated services – rather than to policy development or issues of long-term administrative impact.

Disposition: Temporary Record. Retain 3 years.

7.08 Legal Case Files. These records document civil lawsuits filed by or against the probate office.

Disposition: Temporary Record. Retain 6 years after case is closed.

7.09 Records Management Documentation.

- a. **Records documenting implementation of the office’s approved RDA.** These records include records management plans, finding aids, and records destruction notices.

Disposition: Temporary Record. Retain 2 years following audit.

- b. **Copy of approved RDA.** The RDA provides legal guidelines for the disposition of all probate records. Each probate office should maintain a signed copy of the RDA.

Disposition: Temporary Record. Retain 2 years after the audit period in which the RDA was superseded.

- c. **Local government records deposit agreements.** These records are formal agreements executed by the probate office so that a local records repository (library, archives, or historical society) may accept physical custody of its long-term records. They include inventories of records in the repository.

Disposition: Temporary Record. Retain 10 years after termination of the agreement.

Note: Deposit agreements must be approved by the Local Government Records Commission. For information, contact ADAH.

- d. **Records request forms.** Probate offices may ask visitors who wish to examine records to complete an identification form before providing access. Information in such forms may include visitor’s name and contact information, date and time of request, records requested, reason for request, and staff comments.

Disposition: Temporary Record. Retain 2 years following audit or until any resulting litigation is concluded.

7.10 Computer Systems Documentation. These files include hardware and software manuals and diskettes, warranties, records of access/authorities, and file naming conventions.

Disposition: Temporary Record. Retain former system documentation 2 years after the audit period in which the former hardware and software no longer exist anywhere in the agency, and all permanent records have been migrated to the new system.

7.11 Websites and Social Media Sites. Websites and social media sites may provide information to the public on such matters as probate office procedures, fees, staffing, and hours of operation.

Disposition: PERMANENT RECORD. Preserve a complete copy of the site annually, or as often as significant changes are made.

7.12 Mailing Lists. Probate offices may compile various standard lists of names and addresses for the purpose of office mailouts.

Disposition: Temporary Record. Retain for useful life.

7.13 Mail, Telephone, and Fax Machine Logs. These records include lists of telephone and fax machine contacts and related data.

Disposition: Temporary Record. Retain for useful life.

7.14 Calendars. These records include desk calendars and other scheduling devices used by probate officials and staff.

Disposition: Temporary Record. Retain for useful life.

Administering Internal Operations: Managing Finances

8.01 Budgeting Records. These records document preparing a budget request package, reporting the status of funds, requesting amendments of allotments, and reporting program performance.

Disposition: Temporary Record. Retain 2 years following audit.

8.02 Audit Reports. These records are annual audits by the Examiners of Public Accounts.

Disposition: PERMANENT RECORD.

8.03 Accounting Records.

- a. **Routine accounting records.** These are records of original entry, such as journals, registers, ledgers, cash books, records of deposits of funds, canceled checks, check stubs, deposit slips and other banking records, receipts, invoices for services, and vouchers.
Disposition: Temporary Record. Retain 2 years following audit.

Records Management Recommendations: The Code of Alabama 1975 § 6-2-35 sets a five-year statute of limitations for “all activities by the state or any subdivision thereof for the amounts claimed for licenses, franchise taxes, or other taxes.” It is recommended that returned checks, or other records documenting the probate office’s efforts to collect unpaid fees or service charges, be retained for this period or until settlement of all claims due.

- b. **General ledgers and detailed year-end trial balances.** These are records of final entry for all financial transactions: collecting revenue (taxing and licensing), purchasing, investing, administering state and federal funds, and general accounting.

- i. Records created prior to 1975.

Disposition: PERMANENT RECORD.

- ii. Records created in or after 1975.

Disposition: Temporary Record. Retain 10 years after the end of the fiscal year in which the records were created.

8.04 Purchasing Records. These records document requisitioning and purchasing supplies and equipment, receipting and invoicing for goods, and authorizing payment for products. They may include purchase orders, invoices, purchasing card receipts, and receiving reports.

Disposition: Temporary Record. Retain 2 years following audit.

8.05 Records of Formal Bids. These records document the bid process, including requests for proposals and unsuccessful responses.

Disposition: Temporary Record. Retain 7 years after the date bids were opened (Code of Alabama 1975 § 41-16-54).

8.06 Contracts. These records document all contracts entered into for services or personal property.

Disposition: Temporary Record. Retain 10 years after termination.

8.07 Federal and State Grant Project Files.

- a. **Financial records, interim narrative reports, and correspondence.** These records include financial reports, interim narrative reports, background materials, and other non-financial supporting documentation for grants awarded. Also included are records relating to unsuccessful grant applications.

Disposition: Temporary Record. Retain 6 years after submission of final report or denial of application.

- b. **Subsidiary financial records.** These records include accounting or purchasing records and any other subsidiary financial documentation of federal grants, excluding financial reports. (See federal Rule 1354.)

Disposition: Temporary Record. Retain 3 years after submission of final financial report.

- c. **Final narrative reports.** Final narrative reports are submitted according to the requirements of the funding agency. They summarize the goals of the grant, how the money was used, and what was accomplished.

Disposition: PERMANENT RECORD.

8.08 Travel Records. These records document requests for authorization from supervisors to travel on official business, as well as related materials such as travel reimbursement forms and itineraries.

Disposition: Temporary Record. Retain 2 years following audit.

8.09 Employer Tax Returns and Related Files. These records include, but are not limited to, employer state tax returns, federal tax returns, local tax returns, unemployment quarterly reports, and Federal Forms 1099. These records do not pertain to individual employees but instead describe the local government agency as a whole.

Disposition: Temporary Record. Retain 2 years following audit.

Administering Internal Operations: Managing Human Resources

9.01 Requests for Professional/Support Staff Positions. These records document requests for personnel submitted by probate offices and subsequent review and/or approval actions taken by the county commission.

Disposition: Temporary Record. Retain 2 years following audit.

9.02 Job Recruitment Materials.

Disposition: Temporary Record. Retain 2 years after the position is filled.

9.03 Employee Handbooks. Handbooks may be created by the probate office, county commission, or county personnel department to explain internal operations and procedures to new employees.

a. **Handbooks created by the probate office.**

Disposition: PERMANENT RECORD.

b. **Handbooks created by other county agencies.**

Disposition: Temporary Record. Retain until superseded.

9.04 Employee Newsletters. Internal newsletters may be created by the probate office, county commission, or county personnel department to communicate office news and important events to employees.

a. **Newsletters created by the probate office.**

Disposition: PERMANENT RECORD.

b. **Newsletters created by other county agencies.**

Disposition: Temporary Record. Retain until superseded.

9.05 Employee Personnel Files. These records document an employee's work history with the probate office. They are generally maintained as case files and include records of continuing education, performance evaluations, disciplinary actions, background checks, payroll deductions, and leave and salary documentation.

Disposition: Temporary Record. Retain 6 years after separation of employee.

9.06 Employee Work Schedules. These records document employees' daily and weekly work schedules.

- a. **Individual employee leave and attendance records (including time sheets).** These records document hours worked, leave earned, and leave taken by individual employees. Disposition: Temporary Record. Retain 2 years following audit.
- b. **Employee cumulative leave/attendance records.** These records document the final leave status (cumulative leave) of individual employees. Disposition: Temporary Record. Retain 6 years after separation of employee.
- c. **Employee sick leave donation records.** These records document the donation of sick leave to their colleagues by probate office employees. Disposition: Temporary Record. Retain 2 years following audit.

9.07 Training Records. These records document the provision of in-service training and professional development for probate staff, including workshop records and evaluations. They do not include materials obtained from outside sources. Disposition is as follows:

- a. **Training standards, policies, procedures, and publications.** These records document the probate office's overall standards, policies, and procedures in providing specialized training to its employees. They may include general policy statements or guidelines, training manuals, or related publications. Disposition: PERMANENT RECORD.

Note: Permanent retention applies to the file copy. Duplicates may be destroyed when no longer needed.

- b. **Training administrative files.** These records document the process of conducting training for employees. They may include individual lesson plans, audiovisual presentations or materials, lists of attendees at workshops or training sessions, sign-in sheets, unpublished handouts, and appraisals of training completed by participants. Disposition: Temporary Record. Retain for useful life.

Administering Internal Operations: Managing Properties, Facilities, and Resources

10.01 Annual Inventory Records. These records document all personal property, equipment, or capital outlay of the office on an annual basis. Disposition: Temporary Record. Retain 2 years following audit.

10.02 Receipts of Responsibility for Property. These records document office property temporarily in the use or possession of an employee. Disposition: Temporary Record. Retain until return of item to the property manager.

10.03 Facilities/Buildings Security Records (including visitor logs). These records document the carrying out of security measures and procedures by the probate office in its buildings and facilities.

- a. **If probate office retains record copy.**
Disposition: Temporary Record. Retain 3 years.
- b. **If county commission retains record copy.**
Disposition: Temporary Record. Retain for useful life.

10.04 Facilities/Buildings Inspection Records. These records document the routine safety and maintenance inspection of probate office facilities and such potentially dangerous items as furnaces, elevators, electronic doors, etc.

- a. **If probate office retains record copy.**
Disposition: Temporary Record. Retain 5 years.
- b. **If county commission retains record copy.**
Disposition: Temporary Record. Retain for useful life.

10.05 Building/Facility Maintenance Work Orders. These records document routine maintenance on probate office facilities and property.
Disposition: Temporary Record. Retain 1 year.

10.06 Insurance Policies and Claims.

- a. **Insurance policies.** These policies document all insurance policies carried by the agency.
Disposition: Temporary Record. Retain 10 years after the end of the fiscal year in which the policy was terminated.
- b. **Insurance claims.** These records document insurance claims filed by the local government agency.
Disposition: Temporary Record. Retain 2 years after the audit period in which the claim was settled.
- c. **Certificates of liability.** These records provide proof of insurance. Certificates are typically valid for a period of one year or less.
Disposition: Temporary Record. Retain until superseded.

10.07 Vehicle and Equipment Maintenance Files. These records document routine maintenance on vehicles and equipment used by probate office staff. They may include work orders, repair records, and related financial records.

- a. **If probate office retains record copy.**
Disposition: Temporary Record. Retain 2 years following audit.

b. **If county commission retains record copy.**

Disposition: Temporary Record. Retain for useful life.

10.08 Motor Pool Vehicle Records. These records document reservations and use of motor pool vehicles by probate office personnel, as well as gasoline usage by motor pool vehicles.

Disposition: Temporary Record. Retain 2 years following audit.

10.09 Employee Parking Records. Records documenting employee parking permit applications, cards, and permits.

a. **When parking fee is charged.**

Disposition: Temporary Record. Retain 2 years after the audit period in which application was denied or card/permit expired.

b. **When no parking fee is charged.**

Disposition: Temporary Record. Retain one year after permit expires.

10.10 Agency Disaster Plans. These records document emergency procedures for restoring probate office operations and protecting vital records in case of natural disasters or other emergencies. Information in the plan may include lists of vital records and equipment, locations of back-up record copies and emergency supplies, contact numbers for emergency assistance agencies, names and telephone numbers of disaster recovery team members, and disaster response and recovery procedures.

Disposition: Temporary Record. Retain until superseded. Duplicate the current plan and disperse off-site copies among disaster recovery team members.

10.11 Facilities/Buildings Safety Plans and Training Files.

a. **Safety plans.** These records document the manner in which agency staff are directed to respond in emergencies. Examples of safety plans include, but are not limited to, fire evacuation protocols, severe weather plans, and active shooter protocols.

Disposition: Temporary Record. Retain until superseded.

b. **Training files.** These records document the training and practice undertaken by staff to implement safety plans. Examples of training and practice include, but are not limited to, fire drills, tornado drills, and bomb threat drills.

Disposition: Temporary Record. Retain 3 years.

Records No Longer Created

Note: The following records are no longer created by probate offices. Because they have historical and genealogical value and few now survive, several that were formerly appraised as temporary have been reclassified as permanent. If the probate office no longer has space for them, the RDA authorizes their transfer to a local archives, library, or historical society under a records deposit agreement. If no such facility is available, the probate office may request the transfer of these records to the Alabama Department of Archives and History (ADAH).

11.01 Applications for Poll Tax Exemptions, Exemption Certificates, and Poll Tax Receipt Books. These records contributed to the compilation of an alphabetical list of individuals in the county who paid the poll tax. Information is duplicated in the poll tax records.
Disposition: PERMANENT RECORD.

11.02 Chattel Mortgage Records and Indices. These were predecessors to UCC records and documented mortgages on personal property. They were usually recorded in volumes and may also include index volumes. Although post-1940 records are appraised as disposable, chattel mortgages may be of interest to local historians and genealogists.

a. **Records created prior to 1940.**

Disposition: PERMANENT RECORD.

b. **Records created 1940-1967.**

Disposition: Offer to local library, archives, or historical society before destroying.

11.03 Records of Removal of Disabilities of Nonage. These records documented recording of petitions to permit minors to convey property and enter into legal contracts.
Disposition: Offer to local library, archives, or historical society before destroying.

11.04 Estray Records. These records contained notices of the impoundment of stray animals. Information available included descriptions of animals, places where they were picked up and were held, and fees collected. Like chattel mortgages, these records may have historical and genealogical interest.
Disposition: PERMANENT RECORD.

11.05 Poll Tax Records. These were alphabetical lists of all individuals who paid the poll tax. Until 1966, they were required by law to be compiled by the probate office. The records were produced in both bound and card file formats. Information may include: taxpayer's name, address, voting district and beat, race, sex, birth date, date first poll tax was due, dates poll tax was paid, and payment number. Later records may also include Social Security numbers.
Disposition: PERMANENT RECORD. Records may be transferred to a county or university archives under the terms of a Local Records Deposit Agreement.

11.06 Records of Birth. Between 1907 and approximately 1940, birth records were required to be filed with the probate judge. Some counties may have vital records filed prior to 1907.
Disposition: PERMANENT RECORD.

11.07 Records of Death. Death records were required to be filed with the probate judge from 1881 to approximately 1940.
Disposition: PERMANENT RECORD.

11.08 Child Labor Affidavits. These affidavits were filed in the probate office by a parent or guardian. They gave permission for a child under age 18 to work in a mill, factory or manufacturing establishment.
Disposition: PERMANENT RECORD.

11.09 Marks and Brands Registrations. These records documented the earmarks and brands used by cattlemen to distinguish their animals from their neighbors'.
Disposition: PERMANENT RECORD.

11.10 Road Books. These books contained information on all public roads within the county. They were formerly required to be maintained in the probate office.
Disposition: PERMANENT RECORD.

11.11 Road Tax Records and Receipts. These records documented payment of a tax or commutation by individuals who wished to gain exemption from required annual road work in the county.
Disposition: PERMANENT RECORD.

11.12 Notices of Appointment of Road Apportioners and Overseers. These records documented the county commission's appointment of road apportioners or overseers of road precincts.
Disposition: PERMANENT RECORD.

11.13 Confederate Pension Records. These records documented the probate office's administration of pensions to Confederate veterans and their widows.
Disposition: PERMANENT RECORD.

11.14 Census of Confederate Veterans. These were alphabetical lists of all individuals in a county receiving Confederate pensions; they were prepared by the state auditor.
Disposition: PERMANENT RECORD.

11.15 Records of Convicts Sentenced to Hard Labor/Penitentiary Convict Records/Criminal Contract Records. These records documented the county's leasing of convicts sentenced to hard labor to private companies or individuals. Created by the county commission, these records were often maintained in the probate office. This practice was discontinued in 1929.
Disposition: PERMANENT RECORD.

11.16 Juvenile Trial Dockets and Records. These records documented the probate court's former jurisdiction over legal proceedings pertaining to juveniles. Information may include the names of juveniles, the date and nature of proceedings, names of witnesses, and any orders of the court.
Disposition: PERMANENT RECORD.

11.17 Dower Records. These records documented widows' claims against their husbands' estates for property they had brought into the marriage.
Disposition: PERMANENT RECORD.

11.18 Apprenticeship Records. These records documented the legal binding of minors to a master craftsman in order to learn a craft or trade. They may include contracts, agreements, bonds, and reports.

Disposition: PERMANENT RECORD.

11.19 Delayed Certificates of Birth. These are certificates of births that occurred more than 12 days before filing. They are also maintained by the state Department of Public Health's Center for Health Statistics.

Disposition: PERMANENT RECORD.

Requirement and Recommendations for Implementing the County Probate Offices Records Disposition Authority (RDA)

Requirement

Under the Code of Alabama 1975 § 41-13-23, “no county, municipal, or other local government official, shall cause any. . . record to be destroyed or otherwise disposed of without first obtaining the approval of the local government records commission.” This RDA constitutes authorization by the Local Government Records Commission to dispose of records as stipulated, with the condition that the responsible official must submit a Local Government Records Destruction Notice to the ADAH Government Records Division to document the destruction. The ADAH, which serves as the commission’s staff, retains local records destruction documentation as a permanent record.

Recommendations

In addition, the Agency should make every effort to establish and maintain a quality record-keeping program by conducting the following activities:

The Agency should designate a staff member in a managerial position as its records liaison/records manager, who is responsible for: ensuring the development of quality record keeping systems that meet the business and legal needs of the agency, coordinating the transfer and destruction of records, ensuring that permanent records held on alternative storage media (such as microforms and digital imaging systems) are maintained in compliance with national and state standards, and ensuring the regular implementation of the agency’s approved RDA.

Permanent records in the Agency’s custody should be maintained under proper intellectual control and in an environment that will ensure their physical order and preservation.

Destruction of temporary records, as authorized in this RDA, should occur agency-wide on a regular basis—for example, after the successful completion of an audit, at the end of an administration, or at the end of a fiscal year. Despite the RDA’s provisions, no record should be destroyed that is necessary to comply with requirements of the Open Meetings Act, audit requirements, or any legal notice or subpoena.

The agency should maintain full documentation of any computerized record-keeping system it employs. It should develop procedures for: (1) backing up all permanent records held in electronic format; (2) storing a back-up copy off-site; and (3) migrating all permanent records when the system is upgraded or replaced. If the agency chooses to maintain permanent records solely in electronic format, it is committed to funding any system upgrades and migration strategies necessary to ensure the records’ permanent preservation and accessibility.

Electronic mail contains permanent, temporary, or transitory record information. Although e-mail records can be printed out, filed, and retained according to the RDA’s requirements, the office should preferably employ an electronic records management system capable of sorting e-

mail into folders and archiving messages having long-term value.

The staff of the Local Government Records Commission or the Examiners of Public Accounts may examine the condition of the permanent records maintained in the custody of the Agency and inspect records destruction documentation. Agency records managers and/or the ADAH archivists are available to instruct the staff in RDA implementation and otherwise assist the Agency in implementing its records management program.

The Local Government Records Commission adopted this revision to the Records Disposition Authority on October 28, 2020.

Steve Murray, Chairman
Local Government Records Commission

Date

By signing below, the agency acknowledges receipt of the retention periods and requirements established by the records disposition authority.

Judge of Probate, _____ County

Date

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